

HOUSE BILL No. 1366

DIGEST OF INTRODUCED BILL

Citations Affected: IC 33-4-3-10; IC 33-5-2-7; IC 33-19-5; IC 33-19-6-1.5.

Synopsis: Court fees. Reduces the deposit that must be made to transfer a case from a small claims docket to a plenary docket from \$70 to \$65. Establishes a \$2 document management fee to be collected in all civil and criminal cases. Provides that money in a clerk's record perpetuation fund may be used for any document management purpose. Makes technical corrections.

Effective: July 1, 2002.

Richardson, Sturtz

January 15, 2002, read first time and referred to Committee on Courts and Criminal Code.

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Introduced

Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

HOUSE BILL No. 1366

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 33-4-3-10 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 10. (a) The filing of a
3 claim on the small claims docket is deemed a waiver of trial by jury.
4 (b) The defendant may, not later than ten (10) days following
5 service of the complaint in a small claims case, demand a trial by jury
6 by filing an affidavit that:
7 (1) states that there are questions of fact requiring a trial by jury;
8 (2) specifies those questions of fact; and
9 (3) states that the demand is in good faith.
10 (c) Notice of the defendant's right to a jury trial, and the ten (10) day
11 period in which to file for a jury trial, shall be clearly stated on the
12 notice of claim or on an additional sheet to be served with the notice of
13 claim on the defendant.
14 (d) Upon the deposit of ~~seventy sixty-five~~ dollars (~~\$70~~) (**\$65**) in the
15 small claims docket by the defendant, the court shall transfer the claim
16 to the plenary docket. Upon transfer, the claim then loses its status as
17 a small claim.

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SECTION 2. IC 33-5-2-7 IS AMENDED TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2002]: Sec. 7. (a) The filing of a claim on the
small claims docket is deemed a waiver of trial by jury.

(b) The defendant may, not later than ten (10) days following
service of the complaint in a small claims case, demand a trial by jury
by filing an affidavit that:

(1) states that there are questions of fact requiring a trial by jury;

(2) specifies those questions of fact; and

(3) states that the demand is in good faith.

(c) Notice of the defendant's right to a jury trial, and the ten (10) day
period in which to file for a jury trial, shall be clearly stated on the
notice of claim or on an additional sheet to be served with the notice of
claim on the defendant.

(d) Upon the deposit of ~~seventy six~~ **sixty-five** dollars (~~\$70~~) (**\$65**) in the
small claims docket by the defendant, the court shall transfer the claim
to the plenary docket. Upon transfer, the claim then loses its status as
a small claim.

SECTION 3. IC 33-19-5-1, AS AMENDED BY P.L.183-2001,
SECTION 4, AND AS AMENDED BY P.L.280-2001, SECTION 18,
IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
2002]: Sec. 1. (a) For each action that results in a felony conviction
under IC 35-50-2 or a misdemeanor conviction under IC 35-50-3, the
clerk shall collect from the defendant a criminal costs fee of one
hundred twenty dollars (\$120).

(b) In addition to the criminal costs fee collected under this section,
the clerk shall collect from the defendant the following fees if they are
required under IC 33-19-6:

(1) A document fee.

(2) A marijuana eradication program fee.

(3) An alcohol and drug services program user fee.

(4) A law enforcement continuing education program fee.

(5) A drug abuse, prosecution, interdiction, and correction fee.

(6) An alcohol and drug countermeasures fee.

(7) A child abuse prevention fee.

(8) A domestic violence prevention and treatment fee.

(9) A highway work zone fee.

(10) A deferred prosecution fee (IC 33-19-6-16.2).

~~(11) A judicial salaries fee (IC 33-19-6-18).~~

~~(12)~~ **(11)** A document storage fee (IC 33-19-6-18.1).

~~(13)~~ **(12)** An automated record keeping fee (IC 33-19-6-19).

~~(14)~~ **(13)** A late payment fee (IC 33-19-6-20).

~~(15)~~ **(14)** A sexual assault victims assistance fee (IC 33-19-6-21).

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(15) A records management fee (IC 33-19-6-1.5).

(c) Instead of the criminal costs fee prescribed by this section, the clerk shall collect a pretrial diversion program fee if an agreement between the prosecuting attorney and the accused person entered into under IC 33-14-1-7 requires payment of those fees by the accused person. The pretrial diversion program fee is:

- (1) an initial user's fee of fifty dollars (\$50); and
- (2) a monthly user's fee of ten dollars (\$10) for each month that the person remains in the pretrial diversion program.

(d) The clerk shall transfer to the county auditor or city or town fiscal officer the following fees, within thirty (30) days after they are collected, for deposit by the auditor or fiscal officer in the appropriate user fee fund established under IC 33-19-8:

- (1) The pretrial diversion fee.
- (2) The marijuana eradication program fee.
- (3) The alcohol and drug services program user fee.
- (4) The law enforcement continuing education program fee.

(e) Unless otherwise directed by a court, if a clerk collects only part of a criminal costs fee from a defendant under this section, the clerk shall distribute the partial payment of the criminal costs fee as follows:

- (1) First, the clerk shall apply the partial payment to general court costs.
- (2) Second, if there is money remaining after the partial payment is applied to general court costs under subdivision (1), the clerk shall distribute the partial payment for deposit in the appropriate county user fee fund.
- (3) Third, if there is money remaining after distribution under subdivision (2), the clerk shall distribute the partial payment for deposit in the state user fee fund.
- (4) Fourth, if there is money remaining after distribution under subdivision (3), the clerk shall distribute the partial payment to any other applicable user fee fund.
- (5) Fifth, if there is money remaining after distribution under subdivision (4), the clerk shall apply the partial payment to any outstanding fines owed by the defendant.

SECTION 4. IC 33-19-5-2, AS AMENDED BY P.L.1-2001, SECTION 35, AS AMENDED BY P.L.183-2001, SECTION 5, AND AS AMENDED BY P.L.280-2001, SECTION 19, IS AMENDED AND CORRECTED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. (a) Except as provided in subsections (d) and (e), for each action that results in a judgment:

- (1) for a violation constituting an infraction; or



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(2) for a violation of an ordinance of a municipal corporation (as defined in IC 36-1-2-10);
the clerk shall collect from the defendant an infraction or ordinance violation costs fee of seventy dollars (\$70).

(b) In addition to the infraction or ordinance violation costs fee collected under this section, the clerk shall collect from the defendant the following fees if they are required under IC 33-19-6:

(1) A document fee (*IC 33-19-6-1, IC 33-19-6-2, IC 33-19-6-3*).

(2) An alcohol and drug services program user fee (*IC 33-19-6-7(b)*).

(3) A law enforcement continuing education program fee (*IC 33-19-6-7(c)*).

(4) An alcohol and drug countermeasures fee (*IC 33-19-6-10*).

(5) A highway work zone fee (*IC 33-19-6-14*).

(6) A deferred prosecution fee (*IC 33-19-6-16.2*).

(7) A jury fee (*IC 33-19-6-17*).

~~(7) A judicial salaries fee (*IC 33-19-6-18*).~~

(8) A document storage fee (*IC 33-19-6-18.1*).

(9) An automated record keeping fee (*IC 33-19-6-19*).

(10) A late payment fee (*IC 33-19-6-20*).

(11) A records management fee (IC 33-19-6-1.5).

(c) The clerk shall transfer to the county auditor or fiscal officer of the municipal corporation the following fees, within thirty (30) days after they are collected, for deposit by the auditor or fiscal officer in the user fee fund established under IC 33-19-8:

(1) The alcohol and drug services program user fee.

(2) The law enforcement continuing education program fee.

(3) The deferral program fee.

(d) The defendant is not liable for any ordinance violation costs fee in an action in which:

(1) the defendant was charged with an ordinance violation subject to IC 33-6-3;

(2) the defendant denied the violation under IC 33-6-3-2;

(3) proceedings in court against the defendant were initiated under IC 34-28-5 (or IC 34-4-32 before its repeal); and

(4) the defendant was tried and the court entered judgment for the defendant for the violation.

(e) Instead of the infraction or ordinance violation costs fee prescribed by subsection (a), the clerk shall collect a deferral program fee if an agreement between a prosecuting attorney or an attorney for a municipal corporation and the person charged with a violation entered into under IC 34-28-5-1 (or IC 34-4-32-1 before its repeal) requires

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1 payment of those fees by the person charged with the violation. The
2 deferral program fee is:

- 3 (1) an initial user's fee not to exceed fifty-two dollars (\$52); and
- 4 (2) a monthly user's fee not to exceed ten dollars (\$10) for each
5 month the person remains in the deferral program.

6 SECTION 5. IC 33-19-5-3, AS AMENDED BY P.L.183-2001,
7 SECTION 6, AND AS AMENDED BY P.L.280-2001, SECTION 20, IS
8 AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]:

9 Sec. 3. (a) For each action filed under:

- 10 (1) IC 31-34 or IC 31-37 (delinquent children and children in need
11 of services); or
- 12 (2) IC 31-14 (paternity);

13 the clerk shall collect a juvenile costs fee of one hundred twenty dollars
14 (\$120).

15 (b) In addition to the juvenile costs fee collected under this section,
16 the clerk shall collect the following fees if they are required under
17 IC 33-19-6:

- 18 (1) A document fee.
- 19 (2) A marijuana eradication program fee.
- 20 (3) An alcohol and drug services program user fee.
- 21 (4) A law enforcement continuing education program fee.
- 22 (5) An alcohol and drug countermeasures fee.
- 23 ~~(6) A judicial salaries fee (IC 33-19-6-18).~~
- 24 ~~(7) (6) A document storage fee (IC 33-19-6-18.1).~~
- 25 ~~(8) (7) An automated record keeping fee (IC 33-19-6-19).~~
- 26 ~~(9) (8) A late payment fee (IC 33-19-6-20).~~
- 27 **(9) A records management fee (IC 33-19-6-1.5).**

28 (c) The clerk shall transfer to the county auditor or city or town fiscal
29 officer the following fees, within thirty (30) days after they are collected,
30 for deposit by the auditor or fiscal officer in the appropriate user fee
31 fund established under IC 33-19-8:

- 32 (1) The marijuana eradication program fee.
- 33 (2) The alcohol and drug services program user fee.
- 34 (3) The law enforcement continuing education program fee.

35 SECTION 6. IC 33-19-5-4, AS AMENDED BY P.L.183-2001,
36 SECTION 7, AND AS AMENDED BY P.L.280-2001, SECTION 21, IS
37 AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]:

38 Sec. 4. (a) For each civil action except:

- 39 (1) proceedings to enforce a statute defining an infraction under
40 IC 34-28-5-4 (or IC 34-4-32-4 before its repeal);
- 41 (2) proceedings to enforce an ordinance under IC 34-28-5-4 (or
42 IC 34-4-32-4 before its repeal);

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1 (3) proceedings in juvenile court under IC 31-34 or IC 31-37;
 2 (4) proceedings in paternity under IC 31-14;
 3 (5) proceedings in small claims court under IC 33-11.6; and
 4 (6) proceedings in actions under section 6 of this chapter;
 5 the clerk shall collect from the party filing the action a civil costs fee of
 6 one hundred dollars (\$100).

7 (b) In addition to the civil costs fee collected under this section, the
 8 clerk shall collect the following fees if they are required under
 9 IC 33-19-6:

- 10 (1) A document fee.
 11 (2) A support and maintenance fee.
 12 ~~(3) A judicial salaries fee (IC 33-19-6-18).~~
 13 ~~(4) (3) A document storage fee (IC 33-19-6-18.1).~~
 14 ~~(5) (4) An automated record keeping fee (IC 33-19-6-19).~~
 15 **(5) A records management fee (IC 33-19-6-1.5).**

16 SECTION 7. IC 33-19-5-5, AS AMENDED BY P.L.183-2001,
 17 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 JULY 1, 2002]: Sec. 5. (a) For each small claims action the clerk shall
 19 collect from the party filing the action a small claims costs fee of
 20 thirty-five dollars (\$35).

21 (b) In addition to a small claims costs fee collected under this section,
 22 the clerk shall collect the following fees if ~~they are~~ **collection is** required
 23 under IC 33-19-6:

- 24 (1) A document fee.
 25 ~~(2) A judicial salaries fee (IC 33-19-6-18).~~
 26 ~~(3) (2) A document storage fee (IC 33-9-6-18.1).~~
 27 ~~(4) (3) An automated record keeping fee (IC 33-19-6-19).~~
 28 **(4) A records management fee (IC 33-19-6-1.5).**

29 SECTION 8. IC 33-19-5-6, AS AMENDED BY P.L.183-2001,
 30 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 JULY 1, 2002]: Sec. 6. (a) Except as provided under subsection (c), for
 32 each action filed under:

- 33 (1) IC 6-4.1-5 (determination of inheritance tax);
 34 (2) IC 29 (probate); and
 35 (3) IC 30 (trusts and fiduciaries);

36 the clerk shall collect from the party filing the action a probate costs fee
 37 of one hundred twenty dollars (\$120).

38 (b) In addition to the probate costs fee collected under this section,
 39 the clerk shall collect from the party filing the action the following fees
 40 if ~~they are~~ **collection is** required under IC 33-19-6:

- 41 (1) A document fee.
 42 ~~(2) A judicial salaries fee (IC 33-19-6-18).~~

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~~(2)~~ (2) A document storage fee (IC 33-19-6-18.1).

~~(3)~~ (3) An automated record keeping fee (IC 33-19-6-19).

(4) A records management fee (IC 33-19-6-1.5).

(c) A clerk may not collect a court costs fee for the filing of the following exempted actions:

(1) Petition to open a safety deposit box.

(2) Filing an inheritance tax return, unless proceedings other than the court's approval of the return become necessary.

(3) Offering a will for probate under IC 29-1-7, unless proceedings other than admitting the will to probate become necessary.

SECTION 9. IC 33-19-6-1.5, AS AMENDED BY P.L.280-2001, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1.5. (a) Each clerk shall establish a clerk's record perpetuation fund. The clerk shall deposit in the fund all:

(1) revenue received by the clerk for the transmitting of documents by facsimile machine to a person under IC 5-14-3;

(2) document storage fees required under section 18.1 of this chapter; and

(3) the late payment fees imposed under section 20 of this chapter that are authorized for deposit in the clerk's record perpetuation fund under IC 33-19-7-1.

(b) In each criminal and civil action, the clerk shall collect a records management fee of two dollars (\$2). The clerk shall deposit records management fees collected under this subsection in the clerk's record perpetuation fund established under subsection (a).

(c) The clerk may use any money in the fund for the following purposes:

(1) The preservation of records.

(2) The improvement of record keeping systems and equipment.

(3) Any document management purpose.

SECTION 10. [EFFECTIVE JULY 1, 2002] **(a) IC 33-4-3-10 and IC 33-5-2-7, both as amended by this act, apply only to a deposit to transfer a case on a small claims docket to the plenary docket that is made after June 30, 2002.**

(b) IC 33-19-6-1.5, as amended by this act, applies only to civil and criminal actions commenced after June 30, 2002.

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